



Date: September 23, 2016

To: Patrick H. West, City Manager *T.H.W.*

From: Robert Luna, Chief of Police /s/
Michael DuRee, Chief of Fire /s/
Kelly Colopy, Director of Health and Human Services /s/

For: Mayor and Members of the City Council

Subject: **Proposition 57: The Public Safety and Rehabilitation Act of 2016**

Introduction

On January 27, 2016, Governor Brown released the proposed Public Safety and Rehabilitation Act of 2016 (Act). This initiative will be voted upon on the November 2016 statewide ballot and shown as Proposition 57. This memo provides an overview of this proposed Act and recent changes in State law impacting public safety.

Background: State Prison Realignment (AB 109) and Proposition 47

In October 2011, and as a part of the State's solution to the U.S. Supreme Court order to reduce State prison overcrowding, the Governor signed into law AB 109, also known as the Public Safety Realignment Law. This legislation "realigned" a number of State prison responsibilities to the County level. With the enactment of AB 109, roughly 500 commonly charged felony crimes in California are now considered "non-serious, non-violent and non-sex-related" crimes, and therefore no longer required by law to be sentenced to State prison. Individuals who commit these crimes are now sentenced to county jail and/or non-custodial mandatory supervision (similar to probation), whereas before they would have been sentenced to California state prison. This means over half of those who previously were housed in the State prison system are now required to be housed in county jails. It is estimated that AB 109 affects over one half of all felony cases in California.

AB 109 also established post-release community supervision (PRCS), which enables offenders released from State custody to be placed under a county-directed PRCS program, instead of the State's parole system, for up to three years. Part of the goal of AB 109 was to encourage counties to develop and implement evidence-based practices and alternatives to incarceration, with the idea that community-based support services will help re-integrate offenders into local communities. The reality is that there has been a lack of funding for community-based support services, leaving cities and counties with more people to support but without the means to do so. Additionally, while AB 109 allows the early release of offenders into cities, city concerns were not considered in the development of this legislation or implementation process.

Proposition 47 took effect the day after it was approved by voters in November 2014, reclassifying almost all crimes related to drug use and/or possession, as well as minor theft, from felonies to misdemeanors. Proposition 47 specifically requires petty theft, including theft of a firearm, receiving stolen property and forging/writing bad checks when the amount involved is \$950 or less, to be treated as misdemeanors. In addition, Proposition 47 allows individuals with prior felony convictions for these crimes to petition the court for resentencing based on the new misdemeanor classification. Proposition 47 requires courts to resentence, usually at a lower sentence, inmates who petition for the resentencing unless the court finds an unreasonable risk to public safety. When Proposition 47 was introduced to voters, the State estimated statewide savings from reduced sentencing to be “in the low hundreds of millions of dollars.” The ballot measure was written so that these “savings” would be reinvested into State programs to serve mental health treatment, substance abuse treatment, truancy reduction programs, and victims services. Despite the original estimates, the Governor’s most recent budget proposes only \$39 million in savings to be reinvested into the programs mentioned herein and no funds have been released yet. Proposition 47 includes no funding for cities or local law enforcement. In summary, Proposition 47 reduces existing felony charges and sentencing, but is not providing the expected level of financial support for community-based supportive services designed to assist those who may otherwise have served prison sentences.

Proposition 57: The Public Safety and Rehabilitation Act of 2016

The Public Safety and Rehabilitation Act of 2016 was originally filed as an initiative measure to make it more difficult to charge a juvenile as an adult. However, after the measure was approved for the ballot, Governor Brown amended the language to allow early release of adult felons in State prison. Despite multiple legal challenges to the Governor’s amendments for the proposed Public Safety and Rehabilitation Act of 2016, the California Supreme Court voted 6-1 that under a new law, the Governor could modify the measure. Accordingly, the amended version of the Public Safety and Rehabilitation Act of 2016 will appear on the November 8, 2016 ballot.

As it will be voted on in November 2016, Proposition 57 would allow inmates convicted of certain nonviolent felony crimes, with “good behavior” in State prison, to apply for parole after completing only the full term for their “primary offense.” Under this measure, a primary offense is defined to “exclude the imposition of an enhancement, consecutive sentence, or alternative sentence.” This means felons with sentence enhancements for use of a deadly weapon, gang enhancements, prior serious or violence felony enhancements, etc., will be eligible for parole at the same time as a defendant who did not have any enhancements.

Additionally, although Proposition 57 states its intent is the early release of prisoners convicted of “non-violent felony offenses,” this term is not defined in the measure, and State law narrowly defines “violent” felonies, which includes murder, attempted murder, rape, etc. Accordingly, a number of crimes generally considered violent in nature could be treated as “non-violent” under this measure.

For example, under the Governor's measure, the following crimes could potentially be considered non-violent and eligible for early release from State prison:

- Threats to a crime victim or witness;
- Active participation in a criminal street gang;
- Felony committed for gang purposes;
- Vehicular manslaughter;
- Involuntary manslaughter;
- Battery with personal infliction of serious bodily injury;
- Throwing acid or flammable substances;
- Assault with a deadly weapon;
- Assault with a deadly weapon on a peace officer or firefighter;
- Discharging firearm at an occupied dwelling, building, vehicle, or aircraft;
- Rape where victim legally incapable of giving consent;
- Rape by intoxicating substance;
- Rape where victim unconscious of the act;
- Criminal threats;
- Arson of a structure or forest land;
- Arson of property;
- Attempted arson;
- Residential burglary;
- Grand theft firearm;
- Assault with a deadly weapon by state prison inmate;
- Holding a hostage by state prison inmate;
- Felony involving the personal use of a deadly weapon.

Proposition 57 would also require a Juvenile Court judge to review each case to decide whether a juvenile as young as 14 years old should be tried in adult court based on a review of the circumstances of a youth's crime and life. This portion of the ballot measure is not likely to affect Long Beach because the Los Angeles County District Attorney's Office generally does not charge juveniles as adults, except in extraordinary circumstances.

Long Beach Current Events

As is with the case of any change in State law, the City of Long Beach has adjusted our practices to meet standards set by AB 109 and Proposition 47. The intent of AB 109 was to reduce the existing prison population, and the intent of Proposition 47 was to significantly reduce or eliminate incarceration for theft and drug crimes. Both initiatives have achieved a measure of success, but local jurisdictions have not been provided sufficient resources to address the increased number of people in our communities who may have otherwise been sent to jail or prison. Such people still need support services in the community, and without services this population could become victims of crime or impact Long Beach crime rates. It is evident the State

is experiencing challenges related to homelessness, and public safety first responders are seeing significant increases in calls for service related to serious and violent offenses, as well as drug overdoses.

Homelessness. Though the City's January 2015 homeless count showed a decrease in homelessness (from January 2013 compared to January 2015), City staff assigned to Homeless Services have visually observed an increase in homelessness, and have been experiencing an increase in the volume of calls from community members regarding homeless concerns. Staff have also seen an increase in the number of people identified as homeless during coordinated outreach efforts across the City. A number of people who are encountered by the outreach teams and many who access services at the Multi-Service Center are living with mental health and substance abuse illnesses. Throughout the City and region, resources are limited to address these concerns. Within the Long Beach Continuum of Care system alone, there are merely 132 mental health specific permanent supportive housing units available. Outreach teams are also encountering a younger population who may be experiencing homelessness but are not open to receiving services. This makes it challenging for staff to engage and offer housing services.

Felony Assaults. In the first 6 months of 2016 (January-June), the Long Beach Police Department responded to 408 felony assaults, an 11.5 percent increase from the same time period for the prior year. Although this number has varied over the past five years, patrol officers have responded to more felony assaults in 2016 than any of the prior five years (January-June).

Drug overdoses. The number of drug overdoses has steadily risen since the changes in State law described in this memo became effective. In the four years before AB 109 (2008-2011), the Long Beach Fire Department responded to an average of 382 calls for service per year involving drug overdoses. In the four years since the passage of AB 109 (2012-2015), there has been an average of 546 responses to drug overdose calls per year. This represents a 43 percent increase in 911 calls for overdoses since the end of 2011.

While City staff cannot scientifically conclude that recent increases in the Long Beach homeless population, shootings and stabbings, as well as drug overdoses are the result of recent changes to State law, it is important to recognize these behavioral changes are occurring in our community. Without an increase in structural State or federal funding and systems to support mental health services, the issues California has seen with homelessness, petty crime and drug use will likely increase. Staff is recommending these issues be considered in context with the changes proposed in Proposition 57, which will appear on the November 8, 2016 ballot.

Next Steps

Proposition 57, the Public Safety and Rehabilitation Act of 2016 will appear on the November 8, 2016 ballot.

If you have questions or comments, please contact Diana Tang, Manager of Government Affairs, at (562) 570-6506.

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